

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:15-CR-00034-BO

UNITED STATES OF AMERICA)
)
v.)
)
CRUISE DION SCOTT)

ORDER

This matter is before the Court on defendant Cruise Dion Scott's motion in letter form requesting time credits against his federal sentence. [DE 232]. The government opposes the motion. [DE 235]. The issue is ripe for decision. For the reasons that follow, the Court dismisses defendant's motion without prejudice for lack of jurisdiction.

BACKGROUND

Defendant was sentenced to 170 months imprisonment in the spring of 2015. [DE 138, 146]. Currently, he is incarcerated at the United States Penitentiary in Jonesville, Virginia. Defendant moves this Court to credit the time he spent in custody prior to his sentencing against his federal sentence. The government opposes on the grounds that such a request is not cognizable before this Court because it lacks jurisdiction.

ANALYSIS


Defendant's motion in letter form asks the Court to give him prior-custody credit against his federal sentence. A claim for credit against a sentence attacks the computation of the sentence not the sentence itself, and, as a result, such a request is cognizable only under 28 U.S.C. § 2241. *See, e.g., United States v. Miller*, 871 F.2d 488, 490 (4th Cir. 1989). A § 2241 petition, however, must be brought in the district of confinement. *Rumsfeld v. Padilla*, 542 U.S. 426, 442–44 (2004).

Defendant is confined at the United State Penitentiary Lee, located in the Western District of Virginia. Accordingly, this Court lacks jurisdiction over his request and dismisses it without prejudice to his ability to re-file in the court of proper jurisdiction.

CONCLUSION

For these reasons, the Court DISMISSES defendant's motion [DE 232] WITHOUT PREJUDICE.

SO ORDERED, this 3 day of October, 2023.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE